

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
Statesville Division

UNITED STATES OF AMERICA,

Plaintiff,

v.

ERIC APPELBAUM,

Defendant.

Case No. 5:12-cv-00186-RLV-DSC

Consolidated with:

CLAUDIA APPELBAUM,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

Case No. 3:14-cv-00504-RLV-DSC

CONSENT JUDGMENT

With the consent of Eric Appelbaum, Claudia Appelbaum, and the United States of America, the Court enters the following judgment:

WHEREAS, on April 10, 2003, the United States assessed Trust Fund Recovery Penalties against Eric Appelbaum under 26 U.S.C. § 6672, as a responsible person at Warde Electric Contracting, Inc., who willfully failed to pay over the payroll taxes withheld from Warde's employees for the periods ending June 30, 1999, September 30, 1999, December 31, 1999, June 30, 2000, and September 30, 2000 (the "TFRPs");

WHEREAS, on March 11, 2014, in response to a Notice of Levy issued by the United States, E Trade transferred \$207,352.80 from an account in the name of Claudia Appelbaum to the United States;

WHEREAS, on March 13, 2014, in response to a Notice of Levy issued by the United States, Wells Fargo Bank transferred \$1,000,000.00 from an account in the name of Claudia Appelbaum to the United States;

WHEREAS, the United States applied the total amount of \$1,207,352.80 levied from Wells Fargo Bank and E Trade to the TFRPs owed by Eric Appelbaum;

WHEREAS, on February 3, 2016, after a trial, the Court determined that the underlying assessments made against Eric Appelbaum were invalid,

WHEREAS, the United States did not appeal that decision;

WHEREAS, Claudia Appelbaum has requested that the funds be returned to her by April 30, 2016 or, in the alternative, has requested a reasonable date certain for return of the funds;

WHEREAS, the government cannot commit to a date certain for return of the funds and continues to maintain that Eric Appelbaum has an interest in the levied funds.

NOW THEREFORE, it is hereby ORDERED that:

1. The United States shall return to Claudia Appelbaum the \$207,352.80 levied from the E Trade Account along with statutory interest accruing from the date of levy, March 11, 2014, until paid, and

2. The United States shall return to Claudia Appelbaum the \$1,000,000 levied from the Wells Fargo account along with statutory interest accruing from the date of levy, March 13, 2014, until paid.

3. The levied amounts are being returned to Claudia Appelbaum as the named account holder of the Wells Fargo and E-Trade Accounts at issue. The parties jointly agree that returning the levied amounts to Claudia Appelbaum has no bearing on whether or not Eric Appelbaum has an interest in the levied amounts, which is an issue that remains in dispute between the parties.

SO ORDERED.

Dated this 14th day of April, 2016.


UNITED STATES DISTRICT JUDGE

Respectfully submitted, April 11, 2016.

/s/ Christopher J. Williamson
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